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Mayor & City Council Members
City of Santa Barbara
Santa Barbara, CA

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**RE: APPEAL OF PLANNING COMMISSION'S CERTIFICATION OF THE FINAL
EIR FOR THE SANDMAN INN REDEVELOPMENT PROJECT AND OF THE
SUBSEQUENT APPROVAL OF THE LATEST VERSION OF THE PROJECT ON
DECEMBER 17, 2009**

Dear Mayor and City Council members,

Citizens Planning Association of Santa Barbara County, with the concurrence and support of the Allied Neighborhoods Association, herewith appeals both above-referenced actions taken by the Planning Commission on December 17, 2009. If allowed to stand, the certification of the Final EIR (FEIR) could have major unpredictable consequences far beyond the scope of the project's latest version which was not analyzed in the FEIR but was approved at the Planning Commission's December 17 meeting. If allowed to stand, the project's approval would lack legitimacy until the present challenge to the FEIR is settled and unless the project's December 2009 version is found approvable even though the November 2009 FEIR makes no reference to it.

BACKGROUND

Applying an unusual and somewhat convoluted methodology, the FEIR alternates in addressing two iterations of the project: the November 2007 version of the originally "Proposed Project" and the November 2009 version of the much more modest "Applicant's Alternative." The December 2009 version of the Applicant's Alternative, which was not analyzed in the FEIR, was argued in the staff report dated December 10, 2009, to be very similar to the November 2009 version and received Planning Commission approval as the Current Project.

We submit that the two analyzed iterations of the Sandman Inn Redevelopment project are very different in the size and nature of their respective environmental impacts and therefore criticize the FEIR for failing to declare the Applicant's Alternative environmentally superior to the originally Proposed Project or otherwise make an overt identification of an environmentally superior alternative as required by CEQA. This failure was discussed by the commissioners at the December 17 hearing and, in a way, became challenged by the following finding that

CPA Appeal of Sandman Inn EIR Certification & Project Approval

1/7/10

Page 1 of 6

Planning Commission unanimously voted to add to its previously prepared list of findings for the Current Project:

"The Planning Commission finds the project plans dated December 3, 2009 to be environmentally superior in terms of relative environmental impacts to all other alternatives evaluated in the EIR." (Quoted from e-mail received on 12/18/09 from Project Planner Allison DeBusk.)

We appreciate the Planning Commission's newly added finding, but consider it insufficient as a way to do justice to the spirit and the letter of the CEQA Statute and Guidelines. Here is why: The certification of the Final EIR in its present form, if not challenged, is conclusively presumed adequate and would effectively preclude any further environmental review should the present or a future property owner abandon "the plans dated December 3, 2009" in favor of a final project that is more intense than the Applicant's Alternative as long as its impacts are not significantly more severe than those of the originally Proposed Project. Even the return of the originally Proposed Project would be possible without further environmental review because, according to the EIR's Project History (Section 3.2.1), the application of November 2007 (MST2007-00591) is still "under consideration." Significantly, the public has been denied the benefit of the EIR's specific analytical conclusion regarding the environmentally preferred alternative which then would be the subject of public comment. It is improper to withhold this fundamental conclusion from the publicly circulated draft and FEIR and instead allow the Planning Commission to make the determination at the final adoption hearing.

Unfortunately, this reflects a practice of the City's Community Development Department to defer analysis of critical CEQA issues beyond the environmental review document, and thereby prevent the public from properly engaging in the CEQA and permitting processes. In essence, the CEQA process is managed to allow decision makers to make decisions about the environmental review document's conclusions, rather than allowing the environmental review documents to function as an independent analysis that informs the decision makers. This has been particularly evidenced in addressing alternatives in EIRs. Here, with the Sandman Inn Redevelopment project, an environmentally superior alternative is NOT identified in the FEIR. In other projects, the City's EIRs have abstained from any analysis of the feasibility of alternatives, such as Veronica Meadows and Elings Park. Since the alternatives analysis is the heart of an EIR, systematically omitting this analysis has perverted and politicized the City's environmental review process. Rather than an objective analysis in the DEIR to which the public can respond, the City's practice is to defer conclusions until the last stage in the process, after public comment has closed, and then leave it up to decision makers, such as the Planning Commission in this case, to draw basic CEQA conclusions as to the identity of the environmentally superior alternative (in this case) or as to the feasibility of alternatives (such as was rejected in Veronica Meadows).

RECOMMENDATIONS

For reasons listed in the next section of the present appeal filing and to be amplified in our forthcoming communications prior to or at the appeal hearing, we urge that you uphold the

CPA Appeal of Sandman Inn EIR Certification & Project Approval

1/7/10

Page 2 of 6

appeal and decline to certify the FEIR as adequate until an environmentally preferred alternative is identified and circulated for public comment.

Additionally, we request imposition of a condition that requires enhanced public and decision maker review of any changes to the Project Description from the analyzed applicant's alternative.

As to the approved Current Project based on the Applicant's Alternative, we acknowledge that it represents a great improvement over the originally Proposed Project. Even so, we remain concerned about its cumulative traffic impacts given that a Whole Foods supermarket has recently opened in the immediate vicinity and that the FEIR's analysis of the circulation conditions in Hitchcock Way is demonstrably flawed. We are also concerned about some policy implications (e.g., jobs/housing imbalance and resource availability) and the precedent-setting size, density and visual impacts of the project due to "double-dipping" by basing the allowable residential density calculations on the total site of 4.58 acres rather than on the condominium parcel of 3.58 acres (minus the area occupied by the two commercial condominiums).

SELECTED LIST OF CONCERNS ABOUT THE FINAL EIR, TO BE AMPLIFIED BY THE APPELLANTS BEFORE OR AT THE APPEAL HEARING

Lack of directness and clarity in illustrating the environmental superiority of the Applicant's Alternative over the originally Proposed Project to decision makers and the public.

CPA's May 10 and May 21 comment letters on the April 2009 Draft EIR (DEIR) listed several major environmental advantages of the Applicant's Alternative over the originally Proposed Project including reduced bulk, reduced construction time, reduced trip generation, and reduced demand on such resources as water, sewage capacity, and solid waste disposal. These and many other indices of the Applicant's Alternative's environmental superiority are indirectly acknowledged by the Final EIR (FEIR), in part through responses to public comments on the DEIR. We regret, however, that our May 21 request for greater clarity through the inclusion of a number of tripartite tables comparing the existing conditions, the originally Proposed Project, and the Applicant's Alternative in terms of quantifiable impacts went unheeded. By contrast, we were pleased to hear one Planning Commissioner praise the usefulness of such comparisons as CPA offered in its December 14 comment letter on the FEIR:

	Applicant's Alternative (office space)		Originally Proposed Project (hotel)
Water usage:	7.44 acre feet per year (afy)	versus	19.53 afy
Sewer needs:	6.63 afy	versus	16.94 afy
Solid waste generation:	18.98 tons per year (tpy)	versus	84.80 tpy

Unfortunately, the FEIR is less user-friendly than the above chart: it leaves it up to the public and the decision makers to search for the pertinent data in Section 11.2.9 Public Services (vol. 1, pp. 327-336 of 545) before they can draw such clear-cut comparisons. The total impact figures, which include the impact of the 73 residences proposed for each version, are of course much higher.

Lack of systematic updating of essential information (relevant especially, but not only, to the originally Proposed Project):

1. The November 2009 FEIR is essentially based on the April 2009 DEIR which in turn relies on numerous documents of much earlier dates. Of note, while the April 2005 drainage analysis was updated in October and November 2009 to meet the changed requirements of the recently adopted new regulatory framework, the update was not considered in the FEIR. And in any case, it addresses only the Applicant's Alternative and is silent about the storm water retention potential of the originally Proposed Project and apparently also about the impact, if any, of the two recently added commercial condominiums.
2. The DEIR's findings about transportation and circulation have not been updated in the FEIR with reference to the October 2009 opening of a Whole Foods supermarket in the commercial plaza catty-corner to the Sandman project. The presence of that new traffic magnet for personal motor vehicles and delivery trucks clearly increased the frequency of gridlock between the State/Hitchcock intersection and the YMCA parking lot despite numerous office vacancies in nearby buildings and the continued vacancy of the entire building where Weightwatchers was among the tenants. The current situation calls for a new look at the results of the transportation studies on which the DEIR was based. After all, actual current traffic counts could now replace the calculations derived from nation-wide averages for various types of trip destinations, as well as the outdated (and occasionally conflicting) turning movement counts at the State/Hitchcock and State/Hope intersections.

Furthermore, a re-evaluation of the neighborhood's traffic conditions should correct the FEIR's erroneous description of Hitchcock Way as having bicycle lanes on both sides of the street (volume 1: p. 136 of 545) because, in fact, bike riders in both directions need to use either the busy roadway or the rather narrow sidewalks. Another consequential defect in the FEIR's approach to Hitchcock Way is the failure to address the lack of any marked pedestrian crossings in the half-mile stretch between State Street and Calle Real. These and other circulation features, also ignored in some previous city-approved documents, have been pointed out by CPA repeatedly with no avail. But they must be taken into account given the recent changes and current development proposals affecting two sites hugging the State/Hitchcock intersection.

No attention paid to job-generation by market-rate and middle-income housing (relevant especially, but not only, to the originally Proposed Project):

It may well be true that the currently operating hotel and restaurant employ more workers than

their proposed commercial replacement in the originally Proposed Project by a three-story hotel or in the Applicant's Alternative by an office building (14,104 gross square feet) and the two commercial condominiums (1,686 square feet) recently added to the project's 73 residential condominiums. It is clear, however, that the project's 62 market-rate units and, to some extent, even the 11 price-restricted "inclusionary" units reserved for middle-income buyers would increase the demand for low, moderate, and middle-income workers, many of whom would join the ranks of daily commuters by choice or by necessity. We also note that the implications of adding two commercial condos were not evaluated in the EIR and that the applicant did not specify whether or not those condos would be allowed to serve *any* commercial purpose – e.g., retail – regardless of the traffic, parking, and job-generating consequences.

Natural and infrastructural resources – fuller awareness of limitations is needed (relevant especially, but not only, to the originally Proposed Project):

Santa Barbara's daily influx of non-resident population oscillates between 40,000 and 100,000 people (see the City's *Conditions, Trends, and Issues* report of August 2005, p. 152 of 350). We believe that the high and increasing number of tourists and commuters should be explicitly acknowledged and taken into account in the cumulative analysis of any major development's impact on the city's present and likely future demand for public facilities (water supply, waste water, solid waste disposal, utilities) and public services (police, fire protection, parks, etc).

Likewise, the actual size of the resident-plus-"day time" population should be considered in relation to our emergency services and road capacity for evacuations when it comes to determining the advisability of permitting a particular project's "double-dipping" (i.e., the granting of full residential density according to the Variable Density Ordinance in addition to the simultaneous retention or re-development of a large part of the site's existing commercial square footage).

Last but not least, a more vigilant EIR certification and project approval process would not have ignored the recently enhanced strain on our natural and infrastructural resources by such factors as the decreasing availability of State Water, the increased siltation of local lakes and reservoirs, and the increasing year-round wild fire danger.

CONCLUSION

The problems associated with the Applicant's Alternative noted above are far less extensive than the problems associated with the originally Proposed Project. In fact, we believe that a simple way of greatly improving the Current Project would be to base its allowable residential density on the size of the condominium parcel (3.58 acres) rather than on both parcels of the total redevelopment area (4.58 acres), one acre of which has been assigned to the project's commercial component. The resulting lower density and greater environmental sustainability might indeed yield an attractive redevelopment welcomed by its neighborhood and an asset to the entire community.

Given the short period for filing this appeal and the many uncertainties associated with this project, we reserve the right to supplement our appeal up to the date of any Council hearing.

Should you have any questions, please do not hesitate to contact our office at 966-3979 or naomi@citizensplanning.org.

This letter is co-signed by Judy Orias, President of Allied Neighborhoods Association, as a showing of Allied's concurrence and support of this appeal.

We thank you in advance for your thoughtful consideration of this matter.

Sincerely,



Naomi Kovacs
Executive Director
Citizens Planning Association



Judy Orias
President
Allied Neighborhoods Association